

*In the Matter of Barbara Finnegan, Clinical Psychologist 1 (Mental Health Services) (PS7009T), Department of Human Services*  
DOP Docket No. 2003-3164  
**(Merit System Board, decided June 23, 2004)**

Barbara Finnegan appeals the determination of the Division of Selection Services that she did not meet the education and experience requirements for the promotional examination for Clinical Psychologist 1 (Mental Health Services) (PS7009T), Department of Human Services.

The promotional examination at issue was announced with specific requirements which had to be met as of the announced closing date of November 21, 2002. These requirements included a Bachelor's Degree supplemented by a Doctor of Philosophy in Psychology, a Doctor of Psychology, or a Doctor of Education in Psychology, with specific credit requirements, and completion of a one year clinical internship. It is noted that Ms. Finnegan was the only applicant for the subject examination and the examination was cancelled when she was found ineligible.

A review of Ms. Finnegan's application reveals that she did not possess the required Doctorate Degree but did possess a Master's Degree in Clinical Psychology. A review of Department of Personnel (DOP) records indicate that Ms. Finnegan has served as a Staff Clinical Psychologist 3 from July 1996 through the present, and as a Staff Clinical Psychologist 1 from July 1981 to July 1996. In addition, Ms. Finnegan supplied her transcripts indicating the course work she has completed towards her Doctorate Degree. Further, Ms. Finnegan indicated in her application that she completed an internship in clinical psychology at Bergen Pines Hospital from July 1977 to July 1978. In reviewing Ms. Finnegan's application, the Division of Selection Services determined that she did not meet the education and experience requirements for the title under test as she did not possess the required Doctorate Degree.

On appeal, Ms. Finnegan argues that she has been performing the duties of the title under test since October 2001. In this regard, Ms. Finnegan contends that she presently holds the "in-house" title of Director of Psychological Services at Green Brook Regional Center and previously held the same title at North Jersey Developmental Center for approximately 11 years. Ms. Finnegan explains that her job duties have included supervising individuals with Doctorate Degrees as well as a large number of other staff. Additionally, Ms. Finnegan provides a detailed listing of the job duties she performed, the committees she has participated in, and her supervisory duties. Further, Ms. Finnegan contends that the Merit System Board (Board) has found in favor of appellants similarly situated to her in the past. In support of this contention, Ms. Finnegan relies on *In the Matter of Robert Hopkins, Senior Clinical Psychologist and Principal Clinical Psychologist* (MSB, decided May

15, 1990), in which the Board found good cause to relax the doctorate requirements for the positions of Senior Clinical Psychologist and Principal Clinical Psychologist and admit the appellant to the examinations. Moreover, Ms. Finnegan submits a letter dated February 27, 2003 from Ruth Lechelt, Chief Executive Officer for Green Brook Regional Center, supporting her appeal. Specifically, Ms. Lechelt indicates in her letter that Ms. Finnegan has performed her duties as Director of Psychology at both Green Brook Regional Center and North Jersey Developmental Center in the most exemplary fashion and should be considered eligible for the present examination. Ms. Lechelt adds that she is aware of at least two other psychologists with the same number of credits earned towards their doctoral degrees as Ms. Finnegan who have won similar appeals. In this regard, Ms. Lechelt explains that Ms. Finnegan has successfully passed her comprehensive examinations and is in "All But Dissertation" status.

## **CONCLUSION**

*N.J.A.C.* 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional examination announcement by the closing date. Additionally, *N.J.A.C.* 4A:4-6.3(b) provides that appellants have the burden of proof in examination and selection disqualification appeals.

Initially, the Division of Selection Services properly denied Ms. Finnegan eligibility based on her failure to possess the required Doctorate Degree. However, Ms. Finnegan does possess a Bachelor's Degree and a Master's Degree in Clinical Psychology, and satisfies the clinical internship requirement. Additionally, Ms. Finnegan is enrolled in a Doctorate program, and a review of her graduate transcripts indicates that she satisfies the specific credit requirements for the subject test. Further, Ms. Finnegan has demonstrated extensive experience as a Staff Clinical Psychologist for over 20 years with the Department of Human Services, and the Chief Executive Officer of Green Brook Regional Center supports her appeal. Moreover, since she is the only potential eligible candidate, the examination is not a competitive situation. *N.J.A.C.* 4A:1-1.2(c) provides that the Board may relax a rule for good cause. In the instant matter, while Ms. Finnegan's education does not technically mirror the requirements of the subject examination, the totality of her education and work experience in clinical psychology is sufficient, under these particular circumstances, to admit her to the subject examination.

## **ORDER**

Therefore, it is ordered that this appeal be granted, and Ms. Finnegan's application be processed.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.